03/07/05

OIPE JC112 MAR 03 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	
Guheen, et. al.	Group Art Unit: 3623
Serial No.: 09/321,360	Examiner: Robinson Boyce, Akiba K
Filed: May 27, 1999	Attorney Docket No: 005222.00259
For: PHASE DELIVERY OF COMPONENTS OF A SYSTEM REQUIRED FOR IMPLEMENTATION OF TECHNOLOGY	

BRIEF ON APPEAL

Mail Stop: Appeal Brief-Patents
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.192, Appellants submit this Appeal Brief, in triplicate, to the Board of Patent Appeals and Interferences in response to the Final Office Action mailed on September 1, 2004 and the Advisory Action mailed December 13, 2004. A Notice of Appeal was filed on January 3, 2005. Please charge any necessary fees in connection with this Appeal Brief to Deposit Account No. 19-0733.

03/08/2005 MAHMED1 00000057 190733 09321360
01 FC:1402 500.00 DA

1. Real Parties in Interest

The real party in interest is ACCENTURE LLP.

2. Related Appeals and Interferences

Appellants are unaware of any appeals or interferences related to the subject appeal.

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM

OIPE MAR 0 3 2005 PATENT & TRADEMARK OFFICE

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission	81

Application Number	09/321,360
Filing Date	May 27, 1999
First Named Inventor	Michael F. Guheen
Art Unit	3623
Examiner Name	Robinson Boyce, Akiba K.
Attorney Docket Number	005222.00259

ENCLOSURES ***(check all that apply)***

- ☒ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Reply to Missing Parts/ Incomplete Application
  - ☐ Reply to Missing Parts under 37 CFR1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) ____
  - ☐ Landscape Table on CD
- ☐ After Allowance Communication to TC
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☒ Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- ☐ Proprietary Information
- ☐ Status Letter
- ☒ Other Enclosure(s) *(please identify below)*:
  Certificate of Express Mail
  Return Receipt Postcard

Remarks

Being filed via Express Mail No. EV363907568US

The Commissioner is authorized to debit or credit any overpayment or deficiency from Deposit Account No. 19-0733. A duplicate of the fee sheet is enclosed.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm	Banner & Witcoff, LTD.		
Signature	Kenneth F. Smolik		
Printed Name	Kenneth F. Smolik		
Date	March 3, 2005	Reg. No.	44,344

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OIPE JC112 MAR 03 2005

PTO/SB/17 (12-04v2)
Approved for use through 07/31/2006. OMB 0651-0032
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL for FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT ($) 500

Complete if Known	
Application Number	09/321,360
Filing Date	05/27/1999
First Named Inventor	Michael F. Guheen
Examiner Name	Robinson Boyce, Akiba K.
Art Unit	3623
Attorney Docket No.	005222.00259

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify) : _____

☒ Deposit Account Deposit Account Number: 19-0733 Deposit Account Name: Banner & Witcoff, LTD.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, **except for the filing fee**

☒ Charge any additional fee(s) or underpayments of fee(s) Under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

	FILING FEES		SEARCH FEES		EXAMINATION FEES		
		Small Entity		Small Entity		Small Entity	
Application Type	Fee ($)	Fee($)	Fee($)	Fee($)	Fee($)	Fee($)	Fees Paid ($)
Utility	300	150	500	250	200	100	____
Design	200	100	100	50	130	65	____
Plant	200	100	300	150	160	80	____
Reissue	300	150	500	250	600	300	____
Provisional	200	100	0	0	0	0	____

2. EXCESS CLAIM FEES

Fee Description	Fee ($)	Small Entity Fee ($)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 30 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims		Extra Claims		Fee($)		Fee Paid ($)
____	-20 or HP=	____	x	____	=	____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims		Extra Claims		Fee($)		Fee Paid ($)
____	- 3 or HP=	____	x	____	=	____

HP = highest number of independent claims paid for, if greater than 3.

Multiple Dependent Claims	
Fee ($)	Fee Paid ($)
____	____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is $250 ($125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets		Extra Sheets		Number of each additional 50 or fraction thereof		Fee ($)	Fee Paid ($)
____	- 100 =	____	/ 50 =	____	(round **up** to a whole number) x		= ____

4. OTHER FEE(S)

	Fees Paid ($)
Non-English Specification, $130 fee (no small entity discount)	____
Other (e.g., late filing surcharge) : Filing a Brief in Support of an Appeal	500

SUBMITTED BY

Signature	Kenneth F. Smolik	Registration No. (Attorney/Agent) 44,344	Telephone 312.463.5000
Name (Print/Type)	Kenneth F. Smolik		Date 03/03/2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

3. Status of the Claims

Claims 1-19 are pending and are found in the Appendix. Claims 1-19 stand rejected. No claims have been allowed.

4. Status of Amendments

No amendment after final rejection has been filed.

5. Summary of the Invention

The present invention is directed to methods, computer readable media, and apparatuses for displaying phases in which components are delivered. The components may be contained in a system that provides a web architecture framework.

As shown in Figure 1A, the presentation method of the present invention first includes displaying a pictorial representation of a system, i.e., web architecture framework, including a plurality of components. (Page 14, second paragraph.) In operation 10, a pictorial representation of a system with a plurality of components is displayed. In operations 12-30, the pictorial representation is indicia coded in order to demonstrate any one or more of various aspects of the system. Such indicia coding may take the form of color coding, texture coding, shading coding, or any other coding which is capable of conveying the desired information.

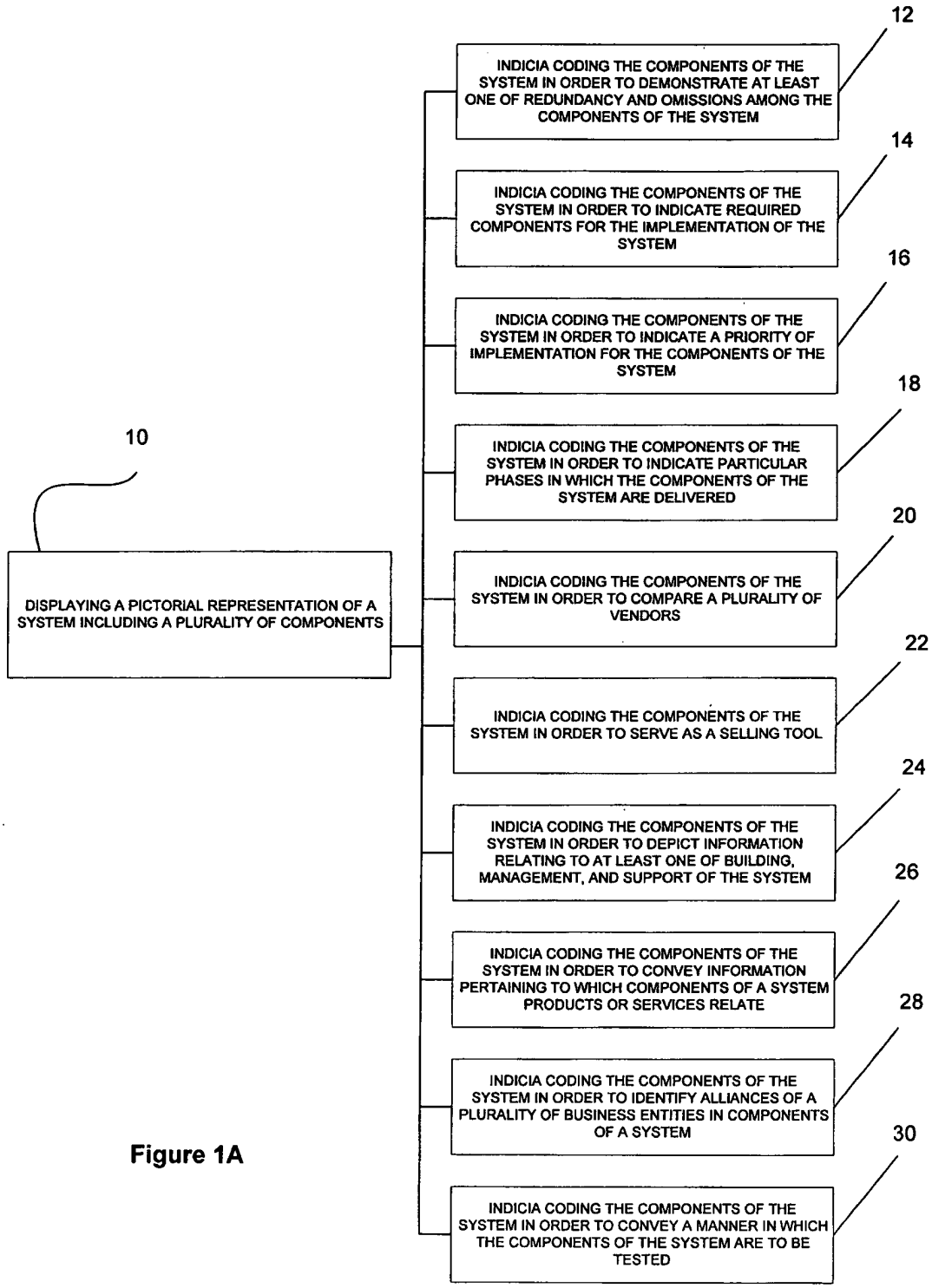
10
DISPLAYING A PICTORIAL REPRESENTATION OF A SYSTEM INCLUDING A PLURALITY OF COMPONENTS
12
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO DEMONSTRATE AT LEAST ONE OF REDUNDANCY AND OMISSIONS AMONG THE COMPONENTS OF THE SYSTEM
14
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO INDICATE REQUIRED COMPONENTS FOR THE IMPLEMENTATION OF THE SYSTEM
16
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO INDICATE A PRIORITY OF IMPLEMENTATION FOR THE COMPONENTS OF THE SYSTEM
18
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO INDICATE PARTICULAR PHASES IN WHICH THE COMPONENTS OF THE SYSTEM ARE DELIVERED
20
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO COMPARE A PLURALITY OF VENDORS
22
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO SERVE AS A SELLING TOOL
24
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO DEPICT INFORMATION RELATING TO AT LEAST ONE OF BUILDING, MANAGEMENT, AND SUPPORT OF THE SYSTEM
26
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO CONVEY INFORMATION PERTAINING TO WHICH COMPONENTS OF A SYSTEM PRODUCTS OR SERVICES RELATE
28
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO IDENTIFY ALLIANCES OF A PLURALITY OF BUSINESS ENTITIES IN COMPONENTS OF A SYSTEM
30
INDICIA CODING THE COMPONENTS OF THE SYSTEM IN ORDER TO CONVEY A MANNER IN WHICH THE COMPONENTS OF THE SYSTEM ARE TO BE TESTED

Figure 1A

The pictorial representation and indicia coding may be displayed in any manner that conveys the desired information. (Page 14, third paragraph.) For example, the pictorial representation may take the form of a transparency with an outline of the various components of the system. Further, the indicia coding may take the form of an overlay removably situated on the transparency such that, together, the transparency and the overlay depict the indicia coding and the pictorial representation in combination. In an embodiment of the invention, the transparency and overlay may comprise a single unitary display device. Further, a display device may take the form of a slide, full size transparency, or any other device that conveys the desired information. Also, the pictorial representation and indicia coding may be displayed via a computer with any desired presentation software.

Figure 1L shows an example of the aforementioned pictorial representation, or "base chart". (Page 15, first paragraph.)

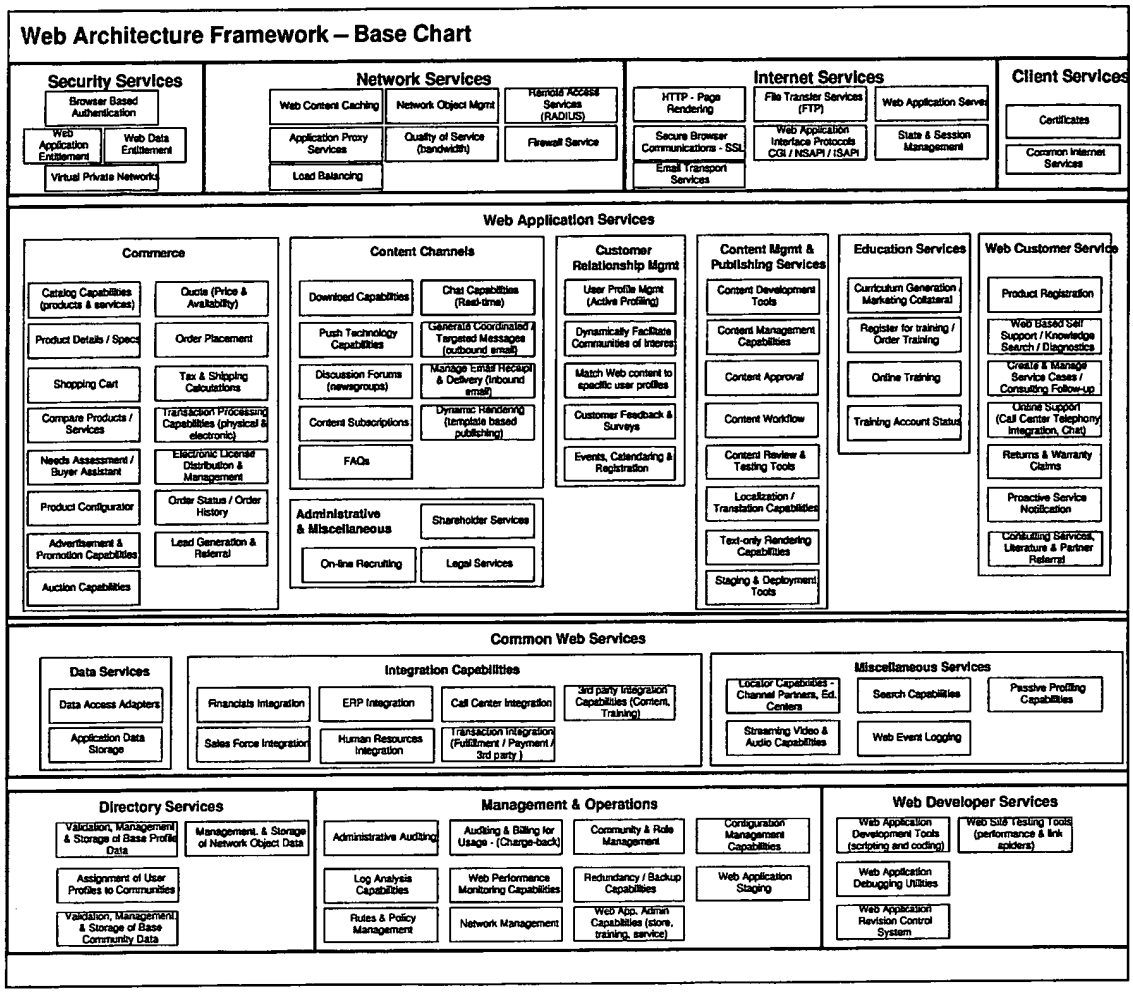

Figure 1L

In the example shown in Figure 1L, the system includes a web architecture framework. (Page 15, first paragraph.) The pictorial representation depicts all of the application capabilities and associated infrastructure services required to establish a comprehensive web presence. A plurality of components is shown that are necessary to afford various activities over the Internet. Such components may include: an electronic commerce component, a content channels component, an administrative component, a customer relationship management component, a content management and publishing services component, an education related services

component, and a web customer service component. The pictorial representation may be used alone in order to convey various services which would be provided in a business offering.

To create such a pictorial representation, referring to Figure 1L-1, each of the primary components of the system, such as the components listed above, are arranged for display in operation 62. (Page 15, second paragraph.) Examples of primary components shown in Figure 1L-1 include "Security Services", "Commerce", and "Data Services". Preferably, the primary components are grouped under descriptive headings, as in operation 63. Examples of such headings shown in 1L are "Web Application Services" and Common Web Services". Each of the primary components is formed of a group of secondary components. In operation 64, each set of secondary components is positioned towards or over each of the primary components in such a manner that a viewer would visually associate a group of secondary components with the proper primary component. A legend may be provided in operation 65 to provide reference as to what the indicia coding represents. Finally, in operation 66, the components and legend are displayed.

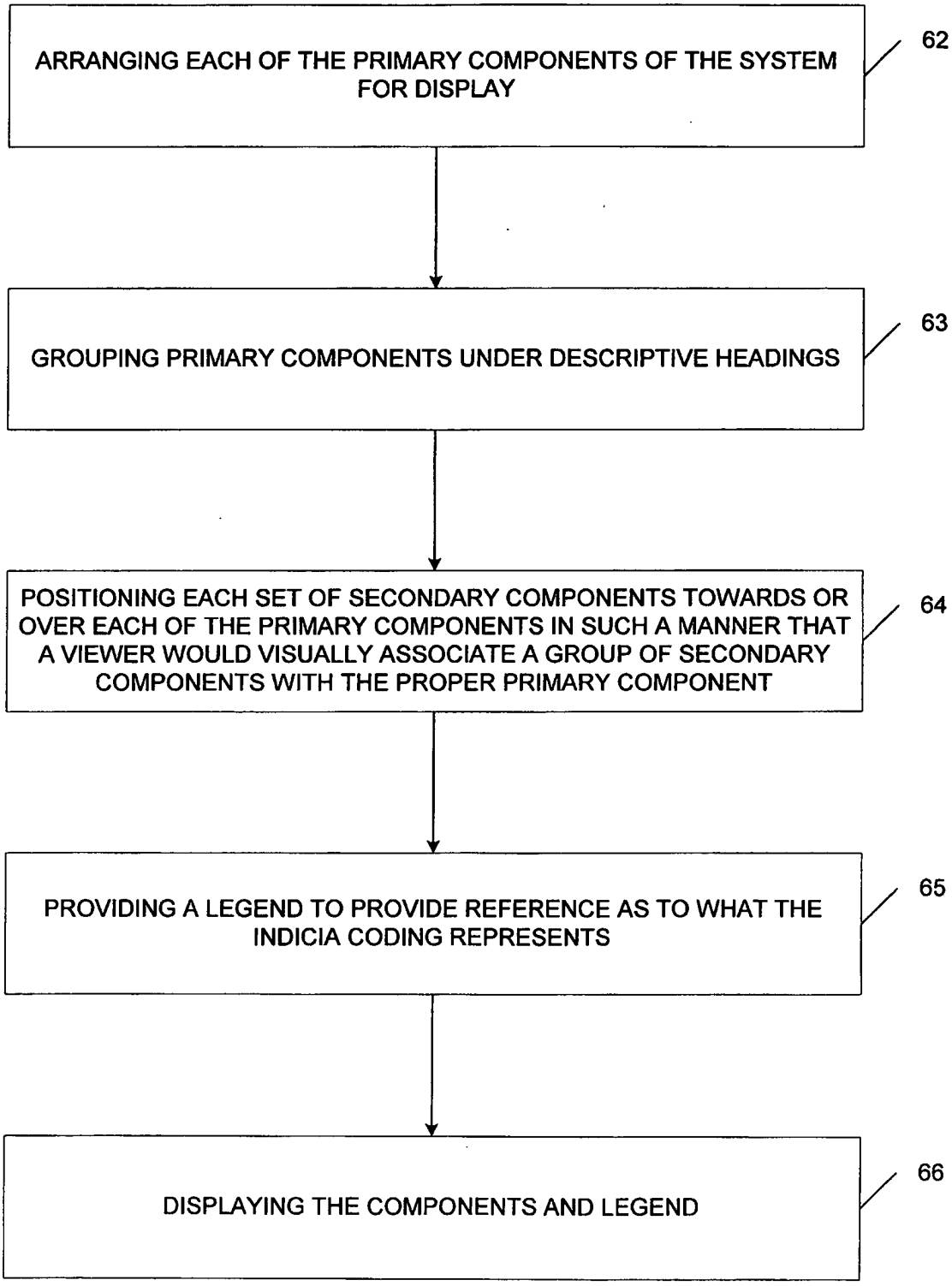
ARRANGING EACH OF THE PRIMARY COMPONENTS OF THE SYSTEM FOR DISPLAY
62
GROUPING PRIMARY COMPONENTS UNDER DESCRIPTIVE HEADINGS
63
POSITIONING EACH SET OF SECONDARY COMPONENTS TOWARDS OR OVER EACH OF THE PRIMARY COMPONENTS IN SUCH A MANNER THAT A VIEWER WOULD VISUALLY ASSOCIATE A GROUP OF SECONDARY COMPONENTS WITH THE PROPER PRIMARY COMPONENT
64
PROVIDING A LEGEND TO PROVIDE REFERENCE AS TO WHAT THE INDICIA CODING REPRESENTS
65
DISPLAYING THE COMPONENTS AND LEGEND
66

Figure 1L-1

Further, indicia coding may indicate particular phases in which components of the system are delivered, and more particularly the order of delivery of various components of the web architecture framework. (Page 18, third paragraph.) In operation 18, as shown in Figure 1A, the components are indicia coded in order to indicate the particular phases in which the components of the system are delivered. Referring to Figure 1E, operation 40 displays a pictorial representation of an existing system including a plurality of components.

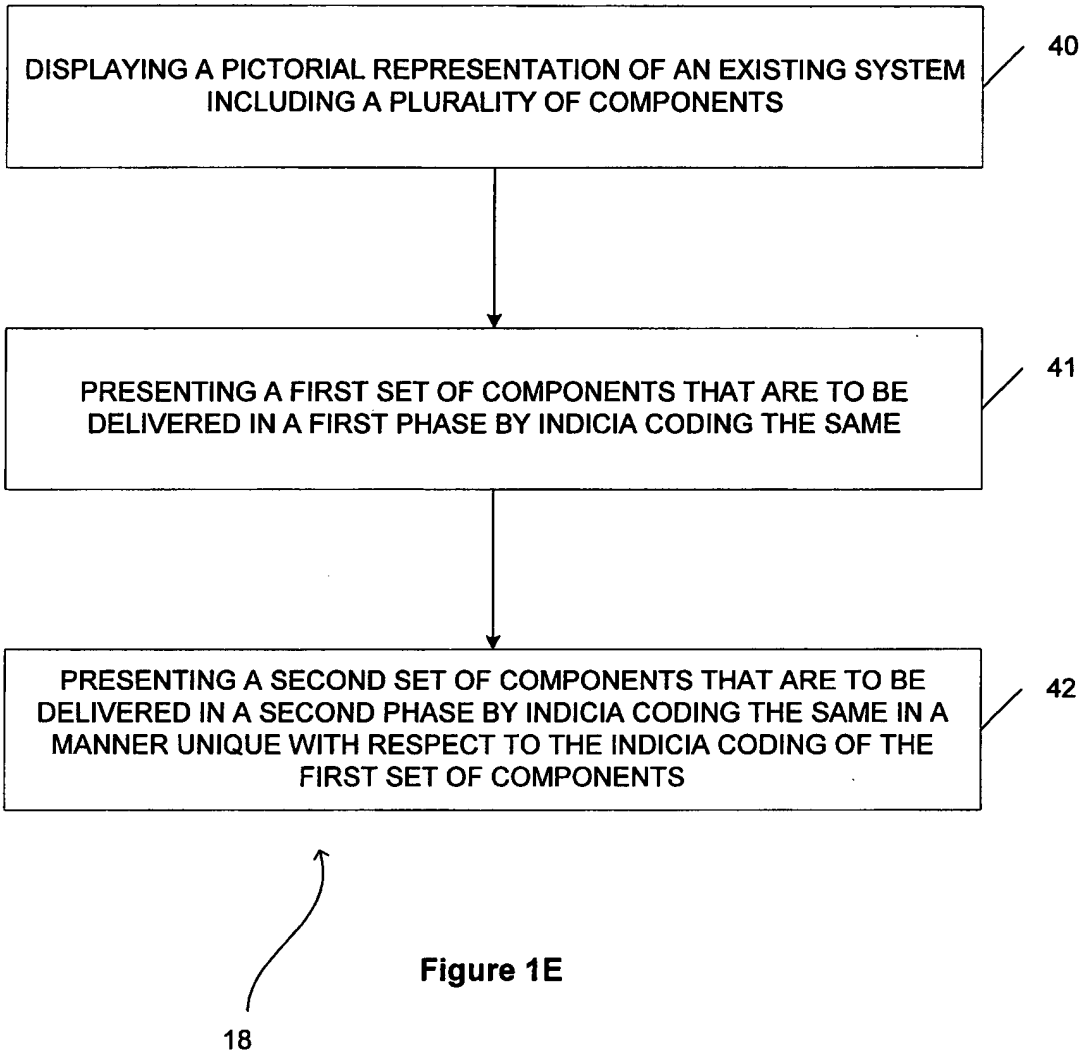

Figure 1E

In operation 41, a first set of components that are to be delivered in a first phase are selected and presented by indicia coding the same. (Page 19, first paragraph.) To perform operation 41, for example, referring to Figure 1E-1, components of the system that are required to create the base framework of the system are selected to be delivered in the first phase in operation 41a.

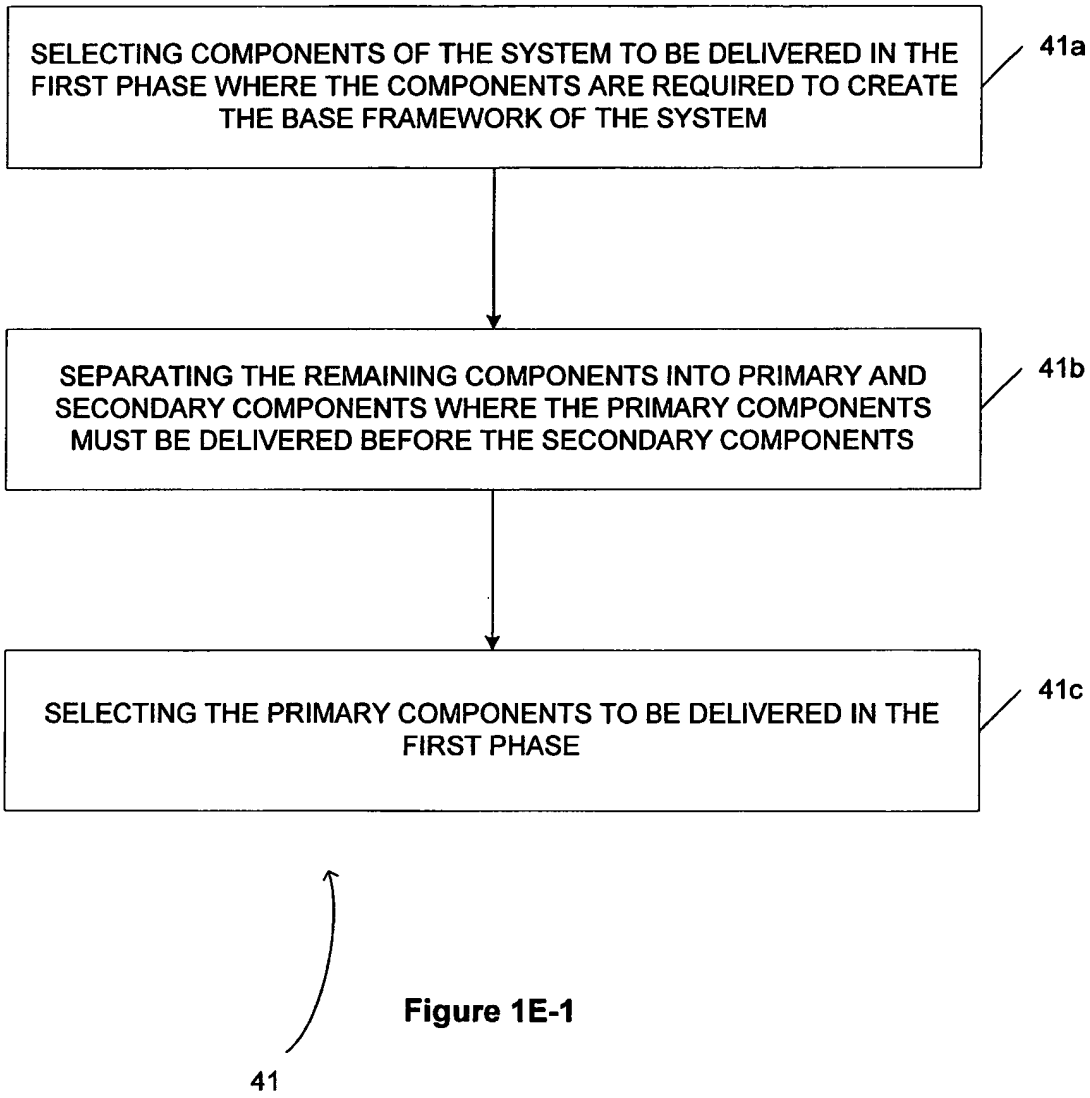

Figure 1E-1

Further, in operation 41b, the remaining components are separated into primary and secondary components, in which the primary components must be installed before the secondary components in order for the secondary components to function properly. (Page 19, first paragraph.) The primary components may also be selected to be delivered in the first phase in operation 41c. Finally, in operation 42, a second set of components that are to be delivered in a

second phase are selected and presented by indicia coding the same in a manner unique with respect to the indicia coding of the first set of components. The second set of components may include some or all of the secondary components found in operation 41b. As an example, an exemplary first set of components is identified in a legend under "First Delivery". The second and third sets of components are identified in the legend under "Second Delivery" and "Third Delivery".

6. Issues

The issues under appeal are:

(a) whether Rassman teaches additional components for implementation;

(b) whether Rassman inherently incorporates hardware and software components of a web architecture; and

(c) whether Rassman teaches a presented legend which defines the indicia coding.

7. Grouping of Claims

The following claims stand or fall together in the eight indicated groups: (a) claim 1; (b) claim 7; (c) claim 13; (d) claims 2, 8, and 14; (e) claims 3, 9, and 15; (f) claims 4, 10, and 16; (g) claims 5, 11, and 17; (h) claims 6, 12, and 18; and (i) claim 19.

8. Argument

A. Office Action fails to show a teaching that suggests additional components for implementation.

1. The Office Action fails to show a teaching that suggests a feature for compiling a listing of additional components for implementation into the existing system

Claim 1 includes a feature for "compiling a listing of additional components for implementation into the existing system." The system provides a web architecture framework, in which the additional components are subsequently implemented into the existing system.

Regarding claim 1, the Office Action alleges that the feature of "compiling a listing of **additional components** for implementation into the existing system" is taught by Rassman (US Patent No. 4,937,743) as cited in column 3, lines 7-11. (Emphasis added.) As admitted by the Office Action, Rassman "discloses that the **resource information** in the database can be updated to have the most recent data." (Emphasis added.) Rassman teaches (Column 3, lines 7-11. Emphasis added.):

> In one of its preferred configurations, the invention contemplates providing access to a data base to permit continuous updating of the information stored therein so that when **resource utilization** is displayed it reflects the most recent data in the data base.

Rassman teaches continuous updating of information for existing components but does not teach the feature of "compiling a listing of **additional components** for implementation into the existing system". (Emphasis added.) Rassman merely teaches a data base that stores information (e.g., resource utilization) about a resource (an existing component) rather than a listing of additional components. Moreover, Rassman fails to suggest compiling a list of anything. The Office Action further argues that "in Col. 7, lines 55-57, Rassman discloses that the remaining operating rooms could be scheduled in a similar fashion as the first set of operating rooms in 'Case abc'." (Page 8, item 5.) Rassman does disclose (Column 7, lines 53- 60.):

> In FIG. 1, the vertical rectangle, labeled "Case abc" is the scheduling indicator. In similar fashion, the remaining operating rooms could be scheduled and scheduling indicia displayed. As long as nothing is planned for one of the primary resources at a particular time, the blank screen or "open" at that location would constitute the scheduling indicator

The Office Action alleges that "These remaining components represent the additional component since they are components that can be **implemented into the system at a different time** as a first set of components." (Page 8, section 5. Emphasis added.) However, Rassman does not suggest scheduling a second room to "Case abc" (which the Office Action appears to equate to "a system" in claim 1) but rather to another case, e.g., Case def as shown in FIG. 1, which corresponds to a different system as claimed in claim 1. (Assigning a second room to "Case abc" requires that the operation be transferred to

another operating room while the patient is being operated on. (In the teachings of Rassman, each surgical operation appears to correspond to a "system" as claimed in claim 1.) This is clearly not the intent of Rassman's teachings.) For at least the above reasons, Rassman does not teach or even suggest the feature of "compiling a listing of additional components for implementation into the existing system." Claim 1 is patentable over Rassman, and thus the rejection of claim 1 under 35 U.S.C. 103(a) should be reversed.

Regarding claim 7, which claims a computer program comprising code segments, the Office Action further alleges that "As per claim 1, computer programs, code segment and logic, and a processor executes computer-executable instructions for performing the logic are inherent with Rassman, et al's system". However, claim 7 is patentable for at least the above reasons. The rejection of claim 7 under 35 U.S.C. 103(a) should be reversed.

Regarding claim 13, which claims an apparatus comprising logic, the Office Action further alleges that "As per claim 1, computer programs, code segment and logic, and a processor executes computer-executable instructions for performing the logic are inherent with Rassman, et al's system". However, claim 7 is patentable for at least the above reasons. The rejection of claim 7 under 35 U.S.C. 103(a) should be reversed.

2. The Office Action fails to show a teaching that suggests a feature for determining a second set of additional components for implementation in a second implementation phase

Claim 1 includes the feature of "determining a second set of additional components for implementation in a second implementation phase." The second set of additional components may be implemented into a system that provides a web

architecture framework in a second implementation phase. Consequently, the system need not be initially implemented in its entirety, thus facilitating system planning and testing.

Regarding claim 1, the Office Action further alleges that Rassman teaches the feature of "determining a second set of **additional components** for implementation in a second implementation phase". Rassman does disclose (Column 4, lines 66 – column 5, line 8. Emphasis added.):

> A supplemental, or transitory data base, preferably integrated with the primary data base, can also be employed **to store information more frequently changed than the information in the primary data base.** The transitory data base could include information about the planned utilization of a given resource on a particular day or at a particular time. Tasks or procedures waiting to be scheduled could also be in the transitory data base.

In the above teaching of Rassman, both the primary data base and the supplemental (transitory) data base merely store information about "a given resource" (same component) and does not relate to an additional component. Also, Rassman discloses (Column 8, lines 21-24):

> In the event it is decided to display secondary resources within cells, such secondary resource displays could be used to indicate conflicts. For example, if Doctor S were scheduled simultaneously in two operating rooms, the display of Doctor S as a secondary resource in either or both of those cells could be made to flash. Such flashing would, in that embodiment, constitute the conflict indicia.

The above teaching of Rassman merely teaches about displaying a secondary resource. While the Office Action appears to equate a secondary resource with "a second implementation phase", both primary resources and secondary resources, as taught by Rassman, are necessary for the first implementation phase. For example, both an operating room (which appears to be equated to a primary resource by the Office Action)

and a doctor (which appears to be equated to a secondary resource by the Office Action) are necessary for an operation. For at least the above reasons, Rassman does not teach or even suggest the feature of "determining a second set of the additional components for implementation in a second implementation phase." Claim 1 is patentable over Rassman, and thus the rejection of claim 1 under 35 U.S.C. 103(a) should be reversed.

Regarding claim 7, which claims a computer program comprising code segments, the Office Action further alleges that "As per claim 1, computer programs, code segment and logic, and a processor executes computer-executable instructions for performing the logic are inherent with Rassman, et al's system". Claim 7 is patentable for at least the above reasons. The rejection of claim 7 under 35 U.S.C. 103(a) should be reversed.

Regarding claim 13, which claims an apparatus comprising logic, the Office Action further alleges that "As per claim 1, computer programs, code segment and logic, and a processor executes computer-executable instructions for performing the logic are inherent with Rassman, et al's system". Claim 7 is patentable for at least the above reasons. The rejection of claim 7 under 35 U.S.C. 103(a) should be reversed.

3. The Office Action fails to show a teaching that suggests the feature of separating the remaining components into primary components and secondary components

Claim 19 includes the feature of "separating the remaining components into primary components and secondary components, wherein the primary components must be installed before the secondary components can function properly." This feature enables a system that provides a web architecture framework to be implemented in a

phased approach, where components in a subsequent phase require the installation of components in a previous phase.

Regarding claim 19, the Office Action alleges that Rassman teaches the feature of "separating the remaining components into primary components and secondary components, wherein the primary components must be installed before the secondary components can function properly." Rassman does disclose (Column 12, lines 14-24. Emphasis added.):

> The system can also be made to take certain **actions** automatically. For example, if a **piece of equipment** must be warmed up for a predetermined period of time before use, the method of the instant invention would encompass having the system **energize that piece of equipment** when a particular milestone in the procedure has been completed. Similarly, in an industrial setting, the system could automatically cut purchase orders or open molds when certain predetermined milestones are reached.

In the above teaching of Rassman, the Office Action appears to equate a piece of equipment to a primary resource and an action about the piece of equipment (an existing component) to a secondary resource, both of which are needed at the same time. However, Rassman fails to teach about primary components and secondary components as claimed in claim 19. Rassman does not even suggest the feature of "separating the remaining components into primary components and secondary components, wherein the primary components must be installed before the secondary components can function properly." Claim 19 is patentable over Rassman, and thus the rejection of claim 19 under 35 U.S.C. 103(a) should be reversed.

B. Rassman does not inherently teach a system providing a web architecture framework.

Regarding claims 1, 7 and 13, the Office Action alleges that "The following is also inherent with Rassman, et al since this patent discloses the 'management of a

plurality of interrelated and interdependent resources using a computer system. In Web technology, a web architecture framework consists of a plurality of interrelated and interdependent computer resources, both and hardware and software. Therefore Rassman teaches: a system for providing a web architecture framework..." It appears that Rassman merely teaches displaying resources on a computer. However, Rassman fails to teach or even suggest "A method for displaying phases in which components of a system for providing a web architecture framework" as claimed in claim 1. For example, Rassman discloses resources corresponding to rooms, medical surgeons, microscopes, and other types of apparatus related to surgical operations in Figure 1, but Rassman fails to even suggest resources related to a web architecture framework. (Column 8, lines 53-59.) Also, Rassman fails to even suggest "A computer program embodied on a computer readable medium for displaying phases in which components of a system for providing a web architecture framework" as claimed in claim 7 and "An apparatus for displaying phases on a computer in which components of a system for providing a web architecture framework" as claimed in claim 13. Claims 1, 7, and 13 are patentable over Rassman, and thus the rejection of claims 1, 7, and 13 under 35 U.S.C. 103(a) should be reversed.

Regarding claims 6, 12, and 18, the Office Action further alleges "As per claims 6, 12, and 18, the following is inherent with Rassman, et al since this patent discloses the 'management of a plurality of interrelated and interdependent resources using a computer system'. In Web technology, a web architecture framework consists of a plurality of interrelated and interdependent computer resources, both hardware and software. It would therefore be inherent to incorporate hardware and software and hardware components of web architecture since they can be managed and visually represented as described in

Rassman: a system for providing a web architecture framework..." While Rassman may teach displaying resources on a computer, Rassman fails to teach or even suggest "A method for displaying phases in which components of a system for providing a web architecture framework" as claimed in claim 6. For example, Rassman discloses resources corresponding to rooms, medical surgeons, microscopes, and other types of apparatus related to surgical operations in Figure 1, Rassman fails to even suggest resources related to a web architecture framework. (Column 8, lines 53-59.) Claims 6, 12, and 18 are patentable over Rassman, and thus the rejection of claims 6, 12, and 18 under 35 U.S.C. 103(a) should be reversed.

Regarding claims 3, 9, and 15, the Office Action further alleges "As per claims 3, 9, and 15, the following is inherent with Rassman, et al since this patent discloses the 'management of a plurality of interrelated and interdependent resources using a computer system'. In Web technology, a web architecture framework consists of a plurality of interrelated and interdependent computer resources, both hardware and software. It would therefore be inherent to incorporate hardware and software and hardware components of web architecture since they can be managed and visually represented as described in Rassman: a system for providing a web architecture framework..." While Rassman may teach displaying resources on a computer, Rassman fails to teach or even suggest "A method for displaying phases in which components of a system for providing a web architecture framework" as claimed in claim 3. For example, Rassman discloses resources corresponding to rooms, medical surgeons, microscopes, and other types of apparatus related to surgical operations in Figure 1, Rassman fails to even suggest resources related to a web architecture framework. (Column 8, lines 53-59.) Claims 3, 9,

and 15 are patentable over Rassman and Turnbull, and thus the rejection of claims 3, 9, and 15 under 35 U.S.C. 103(a) should be reversed.

Regarding claims 4, 10, and 16, the Office Action alleges that "Rassman, et al discloses: wherein the computers of the existing system are selected from the group of components including...customer-related services...(Col. 4, lines 36-42, Col. 5, lines 51-53, [hospital services are customer-related where the patient is the customer]). However, Rassman does not even suggest a method, computer program, or apparatus "for displaying phases in which components of a system for providing a web architecture framework are delivered". Even though resources may be displayed and represented on a computer, Rassman does not even suggest resources of a system for providing a web framework. For example, in Figure 2 Rassman merely shows "Rm 1", "Rm 2", and "Rm 3" representing operating room, "Doc a" representing a doctor, "Mic x" representing a microscope, and "Res y" representing other operating resources. None of these resources are not even related to a system for providing a web architecture framework. Claims 4, 10, and 16 are patentable over Rassman, and thus the rejection of claims 4, 10, and 16 under 35 U.S.C. 103(a) should be reversed.

Regarding claims 5, 11, and 17, the Office Action alleges that "Rassman, et al discloses: wherein the indicia coding is selected from the group of indicia coding including texture coding, color coding...(Col. 6, lines 11-15)." However, Rassman does not even suggest a method, computer program, or apparatus "for displaying phases in which components of a system for providing a web architecture framework are delivered". Even though resources may be displayed and represented on a computer, Rassman does not even suggest resources of a system for providing a web framework.

For example, in Figure 4 Rassman merely shows the scheduling of operating rooms 1-5. None of these resources are not even related to a system for providing a web architecture framework. Claims 5, 11, and 17 are patentable over Rassman, and thus the rejection of claims 5, 11, and 17 under 35 U.S.C. 103(a) should be reversed.

C. The Office Action fails to show a teaching that teaches a presented legend which defines the indicia coding claim.

Regarding claims 2, 8, and 14, the Office Action alleges that "wherein a legend is presented which defines the indicia coding...(Col. 7, lines 11-18, Col. 8, lines 5-7 {indicia is being used to define an item]). As disclosed by the specification, as originally filed, a first set, a second set, and a third set of components may be identified in the legend. (Page 18, first paragraph.) While the specification has not provided an explicit definition of "legend," the common meaning of "legend" is "An explanatory **table or list** of the symbols appearing on a map or chart." (The American Heritage College Dictionary, Third Edition, Houghton Mifflin Company. Emphasis added.) As cited by the Office Action, Rassman merely teaches (Column 7, lines 11-18; and Column 8, lines 5-7):

> Recognizing that some conflicts may be real and others only apparent, the system and method of the present invention can be made to recognize different kinds of conflicts, some which it "knows" are irreconcilable, some which it "knows" are susceptible of accommodation and some which it is unable to "recognize" as falling in either category. Each type of "conflict" could be indicated by its own unique indicia.
> Alternatively, by use of color, shading, shape positioning or the like, the conflict indicia itself can identify the secondary resource which is the source of conflict.

However, Rassman fails to teach a table or listing of the symbols (corresponding to the different indicia). Thus, Rassman fails to teach or even suggest "wherein a legend is presented which defines the indicia coding with respect to the phases of delivery of the components" as claimed

in claims 2, 8, and 14. Claims 2, 8, and 14 are patentable over Rassman, and thus the rejections of claims 2, 8, and 14 under 35 U.S.C. 103(a) should be reversed.

Conclusion

Claims 1-19 are being appealed. The rejections contained in the Office Action of September 1, 2004 should be reversed for at least the reasons recited above. Reversal of the rejections is requested.

Respectfully Submitted,

Banner & Witcoff, LTD

Date: March 3, 2005

By: Kenneth F. Smolik

Kenneth F. Smolik
Registration No. 44,344
Banner & Witcoff, Ltd.
10 South Wacker Drive
Suite 3000
Chicago, Illinois 60606
Telephone: 312-463-5000
Facsimile: 312-463-5001

APPENDIX

1. A method for displaying phases in which components of a system for providing a web architecture framework are delivered comprising:

(a) displaying a pictorial representation of an existing system including a plurality of components;

(b) compiling a listing of additional components for implementation into the existing system;

(c) determining a first set of the additional components for implementation in a first implementation phase;

(d) determining a second set of additional components for implementation in a second implementation phase;

(e) modifying the pictorial representation of the existing system to show a pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase; and

(f) modifying the pictorial representation of the existing system to show a pictorial representation of the second set of components being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in the second phase.

2. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein a legend is presented which defines the indicia coding with respect to the phases of delivery of the components.

3. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein the components of the existing system are selected from the group of components including security services, network services, web services, client services, integration capabilities, data services, directory services, management services, operation services, and developer services.

4. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein the components of the existing system are selected from the group of components including commerce-related services, content-related services, administration-related services, customer-related services, and education-related services.

5. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein the indicia coding is selected from the group of indicia coding including texture coding, color coding, and shading coding.

6. A method for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 1, wherein the step of displaying a pictorial representation of an existing system including a plurality of components also includes displaying additional components that may be implemented into the system.

7. A computer program embodied on a computer readable medium for displaying phases in which components of a system for providing a web architecture framework are delivered comprising:

(a) a code segment that displays a pictorial representation of an existing system including a plurality of components;

(b) a code segment that compiles a listing of additional components for implementation into the existing system;

(c) a code segment that determines a first set of the additional components for implementation in a first implementation phase;

(d) a code segment that determines a second set of additional components for implementation in a second implementation phase;

(e) a code segment that modifies the pictorial representation of the existing system to show a pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase; and

(f) a code segment that modifies the pictorial representation of the existing system to show a pictorial representation of the second set of components

being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in the second phase.

8. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein a legend is presented which defines the indicia coding with respect to the phases of delivery of the components.

9. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein the components of the existing system are selected from the group of components including security services, network services, web services, client services, integration capabilities, data services, directory services, management services, operation services, and developer services.

10. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein the components of the existing system are selected from the group of components including commerce-related services, content related services, administration-related services, customer-related services, and education-related services.

11. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein the indicia coding is selected from the group of indicia coding including texture coding, color coding, and shading coding.

12. A computer program for displaying phases in which components of a system for providing a web architecture framework are delivered as recited in claim 7, wherein the step of displaying a pictorial representation of an existing system including a plurality of components also includes displaying additional components that may be implemented into the system.

13. An apparatus for displaying phases on a computer in which components of a system for providing a web architecture framework are delivered comprising:

(a) logic for displaying a pictorial representation of an existing system including a plurality of components;

(b) logic for compiling a listing of additional components for implementation into the existing system;

(c) logic for determining a first set of the additional components for implementation in a first implementation phase;

(d) logic for determining a second set of additional components for implementation in a second implementation phase;

(e) logic for modifying the pictorial representation of the existing system to show a pictorial representation of the first set of components being indicia coded to indicate that they are to be delivered in the first phase;

(f) logic for modifying the pictorial representation of the existing system to show a pictorial representation of the second set of components being indicia coded in a manner unique with respect to the indicia coding of the first set of components to indicate that the second set of components is to be delivered in a second phase; and

(g) a processor that executes computer-executable instructions for performing the logic in (a)-(f).

14. The apparatus of claim 13, wherein a legend is presented which defines the indicia coding with respect to the phases of delivery of the components.

15. The apparatus of claim 13, wherein the components of the existing system are selected from the group of components including security services, network services, web services, client services, integration capabilities, data services, directory services, management services, operation services, and developer services.

16. The apparatus of claim 13, wherein the components of the existing system are selected from the group of components including commerce-related services, content-related services, administration-related services, customer-related services, and education-related services.

17. The apparatus of claim 13, wherein the indicia coding is selected from the group of indicia coding including texture coding, color coding, and shading coding.

18. The apparatus of claim 13, wherein the step of displaying a pictorial representation of an existing system including a plurality of components also includes displaying additional components that may be implemented into the system.

19. The method of claim 1, further comprising:

(g) in response to (c), determining remaining components;

(h) separating the remaining components into primary components and secondary components, wherein the primary components must be installed before the secondary components can function properly;

(i) including the primary components in the first set of additional components; and

(j) including the secondary components in the second set of components.

OIPE
MAR 03 2005
PATENT & TRADEMARK OFFICE

CERTIFICATE OF MAILING BY EXPRESS MAIL
(PATENT APPLICATION)

Express Mail No. EV363907568US

Deposited March 3, 2005

I hereby certify that the attached correspondence, identified below, is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" under 37 CFR §1.10 on the date indicated above and is addressed to the Commissioner for Patents, Mail Stop: Appeal Brief-Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

By: _____
(person *actually* depositing)

Application of: Michael F. Guheen et al.

Application No.: 09/321,360

Filing Date: May 27, 1999

Title: Phase Delivery of Components of a System Required for Implementation of Technology

- Transmittal, 1 page
- Fee Transmittal, 1 page (in duplicate)
- Brief on Appeal, 26 pages (in triplicate)
- Return Receipt Postcard

Attorney Docket No: 005222.00259